

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

**DIANE HAWKINS, individually and on behalf
of all of those similarly situated,**

AND

**ETHAN RYDER, individually and on behalf
of all of those similarly situated,**

Plaintiffs,

v.

WELLS FARGO BANK, N.A.

Defendant.

Case No. 1:19-cv-00638-TSB

Judge Timothy S. Black
Magistrate Judge Karen L. Litkovitz

**DEFENDANT WELLS FARGO BANK, N.A.'S
REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS**

Pursuant to Federal Rule of Evidence 201, Defendant Wells Fargo Bank, N.A. respectfully requests that this Court take judicial notice of the documents submitted herewith:

1. **Exhibit A** is a true and correct copy of the Chapter 13 Voluntary Petition from *In re Jaynes*, No. 2:06-bk-56194, ECF No. 1 (Bankr. S.D. Ohio Oct. 27, 2006).¹ The Court may properly take judicial notice of this document, as it is a public record of a court of the United States. Fed. R. Evid. 201(b)-(c); *Kessler v. Collister*, No. 05-CV-209, 2005 WL 8161778, at *1 (S.D. Ohio June 16, 2005) (“the documents are public records and court records of which the Court may, and indeed shall, take judicial notice”).

2. **Exhibit B** is a true and correct copy of the Chapter 7 Voluntary Petition from *In re Hawkins*, No. 2:11-bk-56158, ECF No. 1 (Bankr. S.D. Ohio June 9, 2011). The Court may

¹ Plaintiff Diane Hawkins’ legal name was previously Diane Jaynes.

properly take judicial notice of this document, as it is a public record of a court of the United States. Fed. R. Evid. 201(b)-(c); *Kessler*, 2005 WL 8161778, at *1 (“the documents are public records and court records of which the Court may, and indeed shall, take judicial notice”).

3. **Exhibit C** is a true and correct copy of a form application for a loan modification, dated May 19, 2010 and submitted to Wells Fargo by Diane Jaynes (Hawkins), that contains redactions on personally identifiable information. The Court may properly take judicial notice of this document because it is incorporated by reference and otherwise integral to the Complaint. Compl. ¶ 114; *In re Huffy Corp. Sec. Litig.*, 577 F. Supp. 2d at 979 (“The court is not limited to the four corners of the complaint,” and may consider “matters incorporated by reference or integral to the claim.”); *Kessler*, 2005 WL 8161778, at *1 (taking judicial notice of documents “implicitly referenced” in and integral to the complaint because they addressed the basis for the underlying cause of action); *Gardner v. Quicken Loans, Inc.*, 567 F. App’x 362, 365 (6th Cir. 2014) (“Hence, in this case, the panel may consider [certain] documents relating [to] the note, mortgage, assignment, loan modification process, and foreclosure.”).

4. **Exhibit D** is a true and correct copy of a form application for a loan modification, dated May 15, 2012 and submitted to Wells Fargo by Ethan Ryder, that contains redactions on personally identifiable information. The Court may properly take judicial notice of this document because it is incorporated by reference, and otherwise integral to the Complaint. Compl. ¶¶ 130-31; *In re Huffy Corp. Sec. Litig.*, 577 F. Supp. 2d at 979 (“The court is not limited to the four corners of the complaint,” and may consider “matters incorporated by reference or integral to the claim.”); *Kessler*, 2005 WL 8161778, at *1 (taking judicial notice of documents “implicitly referenced” in and integral to the complaint because they addressed the basis for the underlying cause of action); *Gardner*, 567 F. App’x at 365 (“Hence, in this case, the panel may consider

[certain] documents relating [to] the note, mortgage, assignment, loan modification process, and foreclosure.”).

Dated: October 7, 2019

Respectfully submitted,

/s/ Scott A. King

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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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